

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:)	
)	
Children’s Television Obligations of)	MM Docket No. 00-167
Digital Television Broadcasters)	

COMMENTS OF THE AD COUNCIL

The Advertising Council (“Ad Council”) submits these comments in response to the Federal above-referenced Communications Commission’s (“FCC” or “Commission”) *Second Further Notice of Proposed Rulemaking* (FCC 06-33) in the Children’s Television Obligations of Digital Television Broadcastings proceeding.

The Ad Council respectfully requests clarification regarding the use of website addresses during children’s programming. Specifically, we ask that public service announcements (PSAs) be exempt from the website requirements detailed in paragraph 50 adopted in the *Report and Order and Further Notice of Proposed Rulemaking* (FCC 04-221), adopted September 9, 2004 (“*Order*”).

I. INTRODUCTION

The Ad Council is a private, non-profit organization with a 63-year history of marshalling volunteer talent from the advertising and media industries to deliver critical messages to the American public. The Ad Council produces, distributes and promotes thousands of public service campaigns on behalf of non-profit organizations and government agencies on issues such as improving the quality of

life for children, preventive health, education, community well being, environmental preservation and strengthening families. In 1995, the Ad Council initiated its *Commitment to Children*, a comprehensive initiative to help all children achieve their full potential through communications strategies. Today, approximately 70% of our docket is dedicated to improving the lives of children and youth. These PSAs address critical social needs facing children such as childhood obesity, bullying, crime prevention, energy conservation, math and science for girls, afterschool programs, online sexual exploitation and early childhood development.

II. THE LANGUAGE OF THE RULE ON WEBSITE LINKS IN CHILDREN'S PROGRAMMING HAS HAD A CHILLING EFFECT UPON BROADCASTERS' WILLINGNESS TO RUN PUBLIC SERVICE ANNOUNCEMENTS

In paragraph 50 of the *Order*, the Commission proposed to limit the display of commercial website information in children's programs. Concerned that children are particularly vulnerable to commercial messages and "incapable of distinguishing advertising from program material," the Commission stated:

...with respect to programs directed to children ages 12 and under, the display of Internet website addresses during program material is permitted as within the CTA limitations only if the website: 1) offers a substantial amount of bona fide program-related or other noncommercial content; 2) is not primarily intended to commercial purposes, including either e-commerce or advertising; 3) the website's home page and other menu pages are clearly labeled to distinguish the noncommercial from the commercial sections; and 4) the page of the website to which viewers are directed by the website address is not used for e-commerce, advertising, or other commercial purposes (e.g., contains no links labeled "store" and no links to another page with commercial material).

Further, in paragraph 52, the FCC required that broadcasters who choose to air children's programs displaying website addresses during program material to certify, as part of its certification in its license renewal application of compliance with the commercial limits on children's programming, that it has also complied with the requirements concerning the display of website addresses in such programming.

The Commission's requirement concerning links to non-commercial websites has created widespread confusion within the broadcast industry, and has had a chilling effect on broadcasters' willingness to run PSAs. The problem arises in that many non-profit and government websites have some commercial (albeit non-profit) component. For example, all of the Ad Council's PSAs – whether they are targeted to children or adults – contain URLs that direct consumers to strictly educational and non-commercial websites. All Ad Council PSA campaigns are in partnership with either a non-profit organization or Federal Government department or agency. The URLs displayed in our PSAs link either to an educational website developed directly for the campaign or as a microsite hosted by the non-profit or Federal government sponsor. Some of these websites represented by the URLs displayed in our PSAs, however, may themselves contain internal links to commercial content (e.g., the Girl Scouts, National Crime Prevention Council (NCPC), and Library of Congress websites have on-line stores). The Girl Scouts' website, for example, has an internal link to an "online shopping mall" that includes Girl Scout uniforms, a

book shop, and a camp shop. The NCPC's McGruff "Bookshelf" includes items such as a McGruff travel mug, holiday ornament, or beanbag doll. The Library of Congress' shop includes children's books, games, puzzles and children's clothing. Obviously, all of these "sales" are non-profit, and the proceeds are used to further the educational and other vital missions that these organizations serve.

While these products are largely educational and constitute a very minor component of the sponsoring organization's website, they have caused confusion for TV stations in regards to the *Order's* four-part test. The Ad Council has found that in order to avoid fines or expensive compliance costs, stations are refusing to run PSAs altogether, refusing to air any PSAs unless they are child-targeted, or are proposing to strip out all URLs in programming, commercial content and PSAs. By eliminating any and all websites, the stations avoid having to determine whether or not the websites are commercial in nature and expend resources on compliance and monitoring.

While the Ad Council appreciates the Commission's attempt to "protect children from over commercialization," we believe the rule concerning the display of website addresses has created the unintended consequence of dampening the media's support for PSAs altogether, which clearly is not in the public interest. The broadcasters' reaction to the rule is particularly problematic because the Ad Council has found that PSAs containing URLs are critical to raising awareness and changing behaviors. These educational websites enable us to engage the viewer beyond the TV PSA, providing resources, tips and interactive programs for children

and parents on a host of social issues. Stripping out the URLs in our PSAs lessens the impact and efficacy of the PSA message. For example, the Girl Scouts PSA campaign website, www.girlsgotech.com, engages young girls to develop an early interest in math, science, and technology. The website also provides tips for parents to help their daughters maintain that interest to help ensure a more diverse and dynamic workforce. The Ad Council's anti-bullying PSA campaign features NCPC's iconic crime dog, McGruff. The PSAs and website are designed to counteract bullying at a young age by encouraging children and parents to take action to prevent the problem. Kids are encouraged to visit www.mcgruff.org to find more tips on dealing with bullies and other troubles. The Library of Congress' PSA campaign encourages children and young adults to learn more about American history. The campaign's website, www.loc.gov, serves to make the Library's 130 million items available to the public and actively engage children, which a 30-second TV PSA simply cannot accomplish.

Finally, in paragraph 57 of the *Order*, the Commission revised its definition of "commercial matter" to include "promotions of television programs or video programming services other than children's educational and informational programming." The Ad Council has received feedback from TV stations who believe that the definition of "commercial matter" is changing to include PSAs. Accordingly, they are less inclined to air PSAs since they believe this will count against their limited commercial time. While the *Order* clearly defines commercial

matter, we respectfully request that the Commission clarify the definition of public service advertising and that it clearly be delineated from commercial time.

III. CONCLUSION

The Ad Council respectfully requests that the Commission exempt PSAs from the website rule so as to avoid diminished media support for our critically needed PSAs, which provide vital public interest benefits for America's children and adults.

Respectfully submitted,

THE ADVERTISING

COUNCIL

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